

ARTICLE 37

PHYSICAL STANDARDS AND FITNESS INCENTIVE PROGRAM

Section A. Standards and Performance.

The parties recognize and subscribe to the proposition that persons who are physically and mentally fit tend to have lower rates of absenteeism and sick leave utilization. Physically and mentally fit employees are also believed to be more capable of adapting to and performing under stressful situations. The parties are committed to achieving the dual objective of reduced absenteeism/sick leave and ability to accommodate to stressful situations. Failure to achieve these objectives leads, each in its own way, to increased employment costs, whether through scheduling or additional overtime.

The parties also recognize that a significant number of Bargaining Unit members will be placed in circumstances (such as subduing and restraining residents, and quelling disturbances) which call for reasonable levels of fitness and endurance.

It has been noted, however, that rates of sick leave utilization need to be reduced; physical conditioning, as noted in numerous auditor general reports, should be standardized and improved; and the number of stress-related disability claims has increased. A physical standards and fitness incentive program is therefore established for Bargaining Unit employees. The program is experimental, and shall be evaluated on the basis of such factors as reductions in sick leave utilization compared to previous years, and overtime cost attributable to absenteeism and sick leave.

Standards of physical fitness and agility shall be established by the departmental employer after consultation with the Union. Such standards shall be related to the superior job performance which Bargaining Unit employees may reasonably be expected to provide. Such standards will be furnished to Bargaining Unit employees and the Union annually.

Performance tests to determine whether employees meet or exceed such physical fitness and agility standards will be conducted by the departmental employer at the departmental or other facilities designated by the Employer. As a pre-condition to taking such test,

the employee must certify to the department that he/she has no knowledge of any medical condition that would prevent him/her from safely participating. Eligible employees shall be afforded the opportunity to take such performance tests two times in a fiscal year, if necessary. Performance tests, if taken, shall be taken on the employee's own time.

Performance tests and their results shall be formally recorded and shall be certified by the departmental employer or explicitly designated representative.

Section B. Eligibility.

Employees who meet the following criteria shall be eligible to participate in the incentive program provided in this Article.

1. Satisfactorily completed the initial probationary period on or before October 1st of the fiscal year in which the benefit may be earned; and
2. Are in full pay status in the unit for 2,000 or more hours of service during the fiscal year in which the benefit may be earned; and
3. In full pay status, on layoff status, or on an approved leave of absence with an established date of return, on September 30 of the fiscal year in which the benefit may have been earned.

(Note: Time spent in layoff status and time required to be treated as "full pay status" pursuant to state statutes dealing with injury arising from a prison riot or prisoner or inmate assault, not to exceed 80 hours in a pay period, but not to exceed six pay periods, shall be credited as if it had been in full pay status only for purposes of Subsection 2. above).

Section C. Attendance Incentive Payment.

An employee who is eligible in accordance with Section B. above shall be entitled to an attendance incentive payment in accordance with the table of sick leave utilization provided below:

<u>Hours of Sick Leave Utilization in Fiscal Year</u>	<u>Attendance Incentive Payment Amount</u>
No sick leave used	\$400.00

More than zero but not more than 10.0	\$150.00
More than 10.0 but not more than 24.0	\$75.00
More than 24.0.....	No Payment

For purposes of this Article, and at the employee's request: up to five days of sick leave used for each bereavement leave, granted pursuant to Article 29, Section B. 4. or, up to five days used by the employee to determine whether the employee is infectious with Tuberculosis, shall be excluded from determining the employee's sick leave utilization.

Sick leave used for an FMLA qualifying purpose may not count against an employee in determining an employee's eligibility for the incentive payment.

Section D. Physical Incentive Payment.

An employee who is eligible in accordance with Section B. above, and who has first qualified for an attendance incentive payment as provided in Section C. and who is certified by the Department in accordance with Section A. above as having successfully met or exceeded, after completion of the probationary period, the performance test standards during the fiscal year, shall be entitled to a lump sum physical fitness incentive payment of \$150.00, except that the amount of the physical incentive payment earned by the eligible employee who has qualified for the maximum attendance incentive payment as provided in Section C. above by using no sick leave in the fiscal year shall be \$300.00.

Section E. Proration.

There shall be no proration of any amounts provided for in this Article.

Section F. Payment Date.

The incentive payment provided for in this Article shall be payable on November 1 following the fiscal year in which it was earned (e.g., the attendance incentive payment earned in FY 04-05 is payable November 1, 2005), except that if it is determined that such payment may be legally deferred until after such date, it shall be payable not later than December 1 of such following fiscal year.